

the Foreign Operations, Export Financing, and Related Programs Appropriations Act for the fiscal year 2001.

I would have voted "yes" on rollcall vote number 142, the motion to instruct the Sergeant at Arms during the consideration of HR 4577, the Labor-HHS-Education Appropriations Act for fiscal year 2001.

I also was unavoidably detained due to a family commitment on the evening of June 27, and I missed one vote during that time. I would have voted "yes" on rollcall vote number 149, Senate amendment number 3610, a McCain amendment as amended to HR 4577, the Labor-HHS-Education Appropriations Act for fiscal year 2001.

#### SEPARATING THE FACTS FROM THE PARTISAN RHETORIC

Mr. LEAHY. Mr. President, this statement is part of my continuing effort to bring clarity to the facts underlying the oversight investigations on campaign finance being pursued by Senator SPECTER within the Subcommittee on Administrative Oversight and the Courts. Staying focused on the facts becomes even more important as the volume of the political rhetoric continues to increase.

Although oversight is an important function, there are obvious dangers of conducting oversight of pending matters. Applying, or seeming to apply, political pressure to pending matters has real consequences, which we are now seeing first-hand. Recently, the Judiciary Committee received requests for information from the defense attorney for Wen Ho Lee, a criminal defendant facing charges of improperly downloading classified information from computers at Los Alamos Nuclear Laboratory. Mr. Lee's defense attorney wants the Republican report on this matter, as well as other documents gathered during oversight, presumably to aid his defense or at least to get potential impeachment materials for prospective government witnesses.

Just today we learned that the Committee has now also been dragged into the pending case of Maria Hsia, a criminal defendant who was recently convicted of campaign finance violations and is awaiting sentencing. Ms. Hsia's attorney apparently found the questioning of the Justice Department prosecutor in charge of her case at last week's hearing so offensive that it is now the basis for a claim that Ms. Hsia's sentencing should be delayed because to set a sentencing date now would only serve political purposes.

Indeed, at a hearing of the Specter investigation on June 21, 2000, a Republican member of the Judiciary Committee queried Robert Conrad, the current head of the Justice Department Campaign Financing Task Force about the Hsia sentencing, despite Conrad's statements that he could not properly

discuss pending matters. The Republican member stated that he expected Conrad to pursue Hsia's sentencing vigorously, and asked whether the government had filed a sentencing memorandum. After Conrad explained that the sentencing submissions had not yet been made, the Republican member stated: "I would expect that you would pursue vigorously the sentencing phase of that case and that you personally would oversee it . . . I have seen some cases previously involving these very matters in which I believe the Department of Justice was not sufficiently aggressive toward sentencing." He then expounded his view that the "only way" a person convicted at trial could get a downward departure at sentencing is to cooperate fully and stated "I would expect that you would treat this like any other case, that unless the defendant was prepared to testify fully and completely and provide information that you can verify, that you would not accept a recommendation of any downward departure." These comments clearly conveyed the Republican member's view that Maria Hsia should be treated harshly at sentencing.

The Specter investigation has broken long-standing precedent and routinely demanded documents and testimony involving ongoing criminal matters. I have warned repeatedly that such interference risks that prosecutions may be compromised, more work will be generated for prosecutors, and political agendas will appear to take precedence over effective and fair law enforcement. Nevertheless, at Senator SPECTER's request, the majority on the Judiciary Committee has approved subpoenas in a number of ongoing criminal cases, including Wen Ho Lee, Peter Lee, who remains on probation and under court supervision, multiple campaign finance cases and investigations, and the Loral/Hughes matter.

With respect to the Loral/Hughes matter, the Judiciary Committee approved issuance of a subpoena on May 11, 2000, to the Justice Department for "any and all" Loral and Hughes documents, over the objection of Wilma Lewis, the United States Attorney in D.C., which is conducting the investigation. Ms. Lewis explained that the United States Attorney's Office has "an open active investigation" into allegations of the unlicensed export of defense services and that thousands of documents in the possession of her office could be responsive to the pending requests from this Committee. Ms. Lewis explained that her office is at an "important point" in the investigation and will be making "critical prosecutorial decisions and recommendations" in the near future. She noted that if this Committee were to subpoena responsive documents from her office, not only would we adversely affect the investigation from a litigation standpoint, we also would be diverting the

attention of the key prosecutors in that case. Instead of working diligently to conclude their investigation, these prosecutors would now be required to sift through thousands of documents and to redact those documents to protect grand jury material. The majority on the Senate Judiciary Committee refused to honor the U.S. Attorney's request and approved the subpoena.

The subject of the Vice President's attendance at coffees was the focus of inquiry at the Judiciary Committee's recent hearing with the Attorney General this week. In summary, the Vice President indicated in response to general questions during an interview with Justice Department prosecutors on April 18, 2000, that he had no concrete recollection of attending the coffees though may have attended one briefly. He fully acknowledged the fact that coffees took place and explained his understanding of their purpose.

Two days after the interview, on April 20th, the Vice President's attorney, James Neal, sent a letter to Conrad clarifying the Vice President's recollection since he had not been advised before the interview that this subject matter would come up. Neal explained that the Vice President "understood your questions about Coffees to concern the Coffees hosted by the President in the White House." Based upon a record review, the Vice President "was designated to attend four White House Coffees. The Vice President hosted approximately twenty-one Coffees in the Old Executive Office Building. He did not understand your questions to include the OEOB Coffees." Indeed, Conrad refers repeatedly in his questions on this subject to "White House coffees" or "White House hosted . . . coffees".

There is absolutely nothing unusual about witnesses in depositions or even in testimony at Congressional hearings supplementing or clarifying the record after the completion of their testimony. In fact, this common practice is embodied in Rule 30 of the Federal Rules of Civil Procedure, which grants deponent thirty days after the transcript is available to review the transcript and recite any changes in the testimony given. The same rules apply to depositions taken in criminal matters, under Rule 15(d) of the Federal Rules of Criminal Procedure.

At the June 27th Judiciary Committee hearing, one Republican member asserted that "there is a question of the coffees," without identifying the question. To the extent this implies that there is something wrong with clarifying a record with a letter shortly after providing testimony, this can be summed up as just more partisan haze.

#### GUN TRAFFICKING REPORT

Mr. LEVIN. Mr. President, last week the Bureau of Alcohol, Tobacco and